

Directive 2009/52/EC of the European Parliament and of the Council
of 18 June 2009 providing for minimum standards on sanctions and
measures against employers of illegally staying third-country nationals

Article 2

Definitions

For the specific purposes of this Directive, the following definitions shall apply:

- (a) ‘third-country national’ means any person who is not a citizen of the Union within the meaning of Article 17(1) of the Treaty and who is not a person enjoying the Community right of free movement, as defined in Article 2(5) of the Schengen Borders Code;
- (b) ‘illegally staying third-country national’ means a third-country national present on the territory of a Member State, who does not fulfil, or no longer fulfils, the conditions for stay or residence in that Member State;
- (c) ‘employment’ means the exercise of activities covering whatever form of labour or work regulated under national law or in accordance with established practice for or under the direction and/or supervision of an employer;
- (d) ‘illegal employment’ means the employment of an illegally staying third-country national;
- (e) ‘employer’ means any natural person or any legal entity, including temporary work agencies, for or under the direction and/or supervision of whom the employment is undertaken;
- (f) ‘subcontractor’ means any natural person or any legal entity, to whom the execution of all or part of the obligations of a prior contract is assigned;
- (g) ‘legal person’ means any legal entity having such status under applicable national law, except for States or public bodies exercising State authority and for public international organisations;
- (h) ‘temporary work agency’ means any natural or legal person who, in compliance with national law, concludes contracts of employment or employment relationships with temporary agency workers in order to assign them to user undertakings to work there temporarily under their supervision and direction;
- (i) ‘particularly exploitative working conditions’ means working conditions, including those resulting from gender based or other discrimination, where there is a striking disproportion compared with the terms of employment of legally employed workers which, for example, affects workers’ health and safety, and which offends against human dignity;
- (j) ‘remuneration of illegally staying third-country national’ means the wage or salary and any other consideration, whether in cash or in kind, which a worker receives directly or indirectly in respect of his employment from his employer and which is equivalent to that which would have been enjoyed by comparable workers in a legal employment relationship.